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Attorneys for Plaintiff
SYNOPSYS, INC.

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SYNOPSYS, INC.,

Plaintiff,

v.

UBIQUITI NETWORKS, INC., UBIQUITI
NETWORKS INTERNATIONAL LIMITED,
CHING-HAN TSAI, and DOES 1-20,
inclusive,

Defendants.

UBIQUITI NETWORKS, INC. AND
UBIQUITI NETWORKS
INTERNATIONAL LIMITED,

Counterclaimants,

v.

SYNOPSYS, INC.,

Counterdefendant.

Case No. 3:17-cv-00561-WHO

**DECLARATION OF DENISE M.
MINGRONE IN SUPPORT OF
SYNOPSYS, INC.'S MOTION FOR
SANCTIONS FOR SPOILIATION**

Date: November 7, 2018
Time: 2:00 p.m.
Dept: Courtroom 2, 17th Floor
Judge: Hon. William H. Orrick

1 I, Denise M. Mingrone, declare as follows:

2 1. I am a member of the California State Bar, admitted to practice before this Court,
3 and am a partner at the law firm of Orrick, Herrington & Sutcliffe LLP, counsel of record for
4 Plaintiff Synopsys, Inc. (“Synopsys”) in this matter. I have personal knowledge of the facts
5 stated in this declaration, except as to those facts stated on information and belief, which I believe
6 to be true. I could and would testify competently to the matters stated herein.

7 2. Synopsys sought to secure Defendants’ compliance with its discovery obligations
8 without Court intervention, but unfortunately Synopsys was unable to do so. For example,
9 Synopsys served discovery requests, sent follow-up letters, and sought Court assistance from
10 Magistrate Judge Beeler to obtain evidence that is subject to Synopsys’ Motion for Sanctions, as
11 outlined in the Synopsys Discovery Timeline attached hereto as **Exhibit F**.

12 3. Synopsys outlined the allegations that form much of the factual bases for its
13 Motion for Sanctions in its Third Amended Complaint (ECF No. 211) and the Motion for Leave
14 to File Third Amended Complaint (ECF No. 187-11, Ex. UU).

15 4. I emailed Ubiquiti’s and UNIL’s lead counsel, Ms. Taylor, about Synopsys’ plan
16 to file a motion for sanctions on July 3, 2018. Ms. Taylor and I subsequently corresponded about
17 the motion on July 13 and July 17, during which correspondence the parties agreed that there was
18 no deadline to file the Motion for Sanctions.

19 5. Attached hereto as **Exhibit A** is a true and correct copy of an email chain between
20 Hartley Nisenbaum and Josh Huang dated June 8, 2018 regarding Mr. Huang’s termination from
21 Ubiquiti, produced in this matter as UBNT00136540-UBNT00136542. **[FILED**
22 **PROVISIONALLY UNDER SEAL]**

23 6. Included as **Exhibit B** is a true and correct copy of a document titled
24 “SNPS00000001.csv” which constitutes Synopsys’ “call-home” data produced in this matter as
25 SNPS00000001. Due to the size and electronic format of the exhibit, it has been filed manually
26 with the court pursuant to Synopsys’ Manual Filing Notification (ECF No. 240). **[FILED**
27 **PROVISIONALLY UNDER SEAL]**

28 7. Attached hereto as **Exhibit C** is a true and correct copy of excerpts from the

1 deposition of Rajendra Kundapur taken in this matter on February 2, 2018. **[FILED**
2 **PROVISIONALLY UNDER SEAL]**

3 8. Included as **Exhibit D** is a true and correct copy of the Initial Report of Daniel E.
4 Roffman and Appendices A-AT thereto, Synopsys' computer forensics expert, served in this
5 matter on August 3, 2018. Due to the size and electronic format of the exhibit, it has been filed
6 manually with the court pursuant to Synopsys' Manual Filing Notification (ECF No. 240).

7 **[FILED PROVISIONALLY UNDER SEAL]**

8 9. Attached hereto as **Exhibit E** is a true and correct copy of excerpts from
9 Defendant Ubiquiti Networks, Inc.'s Amended Response to Synopsys, Inc.'s Second Set of
10 Interrogatories, served in this matter on July 9, 2018. **[FILED PROVISIONALLY UNDER**
11 **SEAL]**

12 10. Attached hereto as **Exhibit G** is a true and correct copy of excerpts from
13 Defendant Ubiquiti Networks International Limited's Third Amended Responses to Synopsys,
14 Inc.'s Second Set of Interrogatories, served in this matter on July 27, 2018. **[FILED**
15 **PROVISIONALLY UNDER SEAL]**

16 11. Attached hereto as **Exhibit H** is a true and correct copy of Defendant Ching-Han
17 Tsai's Objections and Response to Synopsys Inc.'s Second Set of Interrogatories, served in this
18 matter on March 2, 2018. **[FILED PROVISIONALLY UNDER SEAL]**

19 12. Attached hereto as **Exhibit I** is a true and correct copy of excerpts from the Expert
20 Report of Dr. Stephen Edwards, Synopsys' source code expert, served in this matter on August 3,
21 2018. Synopsys has provided excerpts due to the volume of the report and small number of pages
22 cited, but can provide the entire report should the Court desire. **[FILED PROVISIONALLY**
23 **UNDER SEAL]**

24 13. Attached hereto as **Exhibit J** is a true and correct copy of excerpts from the
25 deposition transcript of Daniel E. Roffman taken in this matter on September 5, 2018. **[FILED**
26 **PROVISIONALLY UNDER SEAL]**

27 14. Attached hereto as **Exhibit K** is a true and correct copy of excerpts from the
28 deposition transcript of Rajendra Kundapur taken in this matter on July 18, 2018. **[FILED**

1 **PROVISIONALLY UNDER SEAL]**

2 15. Attached hereto as **Exhibit L** is a true and correct copy of excerpts from the
3 Expert Report of James E. Malackowski, Synopsys' damages expert, served in this matter on
4 August 3, 2018 and subsequently updated with the edits from Mr. Malackowski's errata
5 interlineated. Synopsys can provide the original report and errata without the edits interlineated
6 should the Court desire. Additionally, Synopsys has provided excerpts due to the volume of the
7 report and small number of pages cited, but can provide the entire report should the Court desire.

8 16. Attached hereto as **Exhibit M** is a true and correct copy of excerpts from the
9 Amended Expert Report of Dr. Stuart G. Stubblebine Regarding Licensing, Call-Home, and
10 Related Functionality Within Synopsys, Inc.'s Electronic Design Automation Tools, Ubiquiti's
11 source code expert, served in this matter on August 6, 2018. Synopsys has provided excerpts due
12 to the volume of the report and small number of pages cited, but can provide the entire report
13 should the Court desire. **[FILED PROVISIONALLY UNDER SEAL]**

14 17. Attached hereto as **Exhibit N** is a true and correct copy of an instant messaging
15 conversation between Sheng-Feng Wang and Ching-Han Tsai dated May 17, 2016, produced in
16 this matter as UBNT00021344.

17 18. Attached hereto as **Exhibit O** is a true and correct copy of Ubiquiti Networks,
18 Inc.'s FQ1 2017 Earnings Call Transcript, produced in this matter as SNPS00014075-
19 SNPS00014082.

20 19. Attached hereto as **Exhibit P** is a true and correct copy of a certified translation of
21 Skype chat messages between Ching-Han Tsai and Ya-Chau Yang marked as Exhibit 115 to the
22 deposition of Ching-Han Tsai in this matter. **[FILED PROVISIONALLY UNDER SEAL]**

23 20. Attached hereto as **Exhibit Q** is a true and correct copy of excerpts from the
24 deposition of William Bergman taken in this matter on April 4, 2018.

25 21. Attached hereto as **Exhibit R** is a true and correct copy of an Evaluation
26 Agreement between Ubiquiti Networks, Inc. and Synopsys, Inc. dated November 26, 2013,
27 produced in this matter as SNPS00000221-SNPS00000223.

28 22. Attached hereto as **Exhibit S** is a true and correct copy of an email from Eric Chen

1 of ITCA to Robert Pera, Hayley Nivelles, and Hartley Nisenbaum dated May 10, 2016
2 transmitting a letter titled "Re: SYNOPSISYS Software Infringement" (the "ITCA Notice"),
3 produced in this matter as UBNT00019677-UBNT00019680. **[FILED PROVISIONALLY**
4 **UNDER SEAL]**

5 23. Attached hereto as **Exhibit T** is a true and correct copy of an email chain between
6 Huub van Buchem of ITCA and Hartley Nisenbaum of Ubiquiti dated August 5, 2016 regarding
7 the ITCA notice, produced in this matter as UBNT00019469-UBNT00019492. **[FILED**
8 **PROVISIONALLY UNDER SEAL]**

9 24. Attached hereto as **Exhibit U** is a true and correct copy of an email chain between
10 Huub van Buchem of ITCA and Hartley Nisenbaum of Ubiquiti dated June 20, 2016 regarding
11 the ITCA notice, produced in this matter as UBNT00019449-UBNT00019461. **[FILED**
12 **PROVISIONALLY UNDER SEAL]**

13 25. Attached hereto as **Exhibit V** is a true and correct copy of excerpts from
14 Synopsys, Inc.'s First Set of Requests for Production to Ubiquiti Networks, Inc. (Nos. 1-73),
15 served in this matter on May 12, 2017.

16 26. Attached hereto as **Exhibit W** is a true and correct copy of excerpts from
17 Synopsys, Inc.'s First Set of Requests for Production to Ubiquiti Networks International, Limited
18 (Nos. 1-73), served in this matter on May 12, 2017.

19 27. Attached hereto as **Exhibit X** is a true and correct copy of Synopsys, Inc.'s First
20 Set of Requests to Ubiquiti Networks, Inc. to Permit Inspection and Copying of Electronically
21 Stored Information and Tangible Things, served in this matter on September 8, 2017.

22 28. Attached hereto as **Exhibit Y** is a true and correct copy of Synopsys, Inc.'s First
23 Set of Requests to Ubiquiti Networks International Limited to Permit Inspection and Copying of
24 Electronically Stored Information and Tangible Things, served in this matter September 8, 2017.

25 29. Attached hereto as **Exhibit Z** is a true and correct copy of an email chain between
26 Hartley Nisenbaum and James Lian dated June 5, 2018 regarding Mr. Lian's termination from
27 Ubiquiti, produced in this matter as UBNT00136539. **[FILED PROVISIONALLY UNDER**
28 **SEAL]**

1 30. Attached hereto as **Exhibit AA** is a true and correct copy of an email from Hartley
2 Nisenbaum to Ching-Han Tsai dated June 5, 2018 regarding Mr. Tsai's termination from
3 Ubiquiti, produced in this matter as UBNT00136452. **[FILED PROVISIONALLY UNDER**
4 **SEAL]**

5 31. Attached hereto as **Exhibit BB** is a true and correct copy of an email from Hartley
6 Nisenbaum to Ya-Chau Yang dated June 5, 2018 regarding Mr. Yang's termination from
7 Ubiquiti, produced in this matter as UBNT00136456. **[FILED PROVISIONALLY UNDER**
8 **SEAL]**

9 32. Attached hereto as **Exhibit CC** is a true and correct copy of an email from Hartley
10 Nisenbaum to Chang-Ching Yang dated June 5, 2018 regarding Mr. Yang's termination from
11 Ubiquiti and a proposed consulting opportunity, produced in this matter as UBNT00136451.
12 **[FILED PROVISIONALLY UNDER SEAL]**

13 33. Attached hereto as **Exhibit DD** is a true and correct copy of excerpts from the
14 deposition transcript of Ching-Han Tsai, taken in this matter on April 15, 2018. **[FILED**
15 **PROVISIONALLY UNDER SEAL]**

16 34. Attached hereto as **Exhibit EE** is a true and correct copy of excerpts from the
17 deposition transcript of Sheng-Feng Wang, taken in this matter on April 13, 2018. **[FILED**
18 **PROVISIONALLY UNDER SEAL]**

19 35. Attached hereto as **Exhibit FF** is a true and correct copy of excerpts from the
20 Rebuttal Report of Kevin Faulkner, Ubiquiti's computer forensics expert, served in this matter on
21 August 24, 2018. Synopsys has provided excerpts due to the volume of the report and small
22 number of pages cited, but can provide the entire report should the Court desire. **[FILED**
23 **PROVISIONALLY UNDER SEAL]**

24 36. Attached hereto as **Exhibit GG** is a true and correct copy of excerpts from the
25 deposition transcript of Hartley Nisenbaum, taken in this matter on April 25, 2018.

26 37. Attached hereto as **Exhibit HH** is a true and correct copy of excerpts from the
27 deposition transcript of Kevin Radigan, taken in this matter on April 27, 2018.

28 38. Attached hereto as **Exhibit II** is a true and correct copy of an instant messaging

1 conversation between Ching-Han Tsai and Hua-Lin Hsu dated May 13, 2016, produced in this
2 matter as UBNT00021630. **[FILED PROVISIONALLY UNDER SEAL]**

3 39. Attached hereto as **Exhibit JJ** is a true and correct copy of excerpts from the
4 30(b)(6) deposition transcript of Ubiquiti Networks, Inc. and Ubiquiti Networks International
5 Limited through its designee Scott Kinnersley, taken in this matter on June 26, 2018. **[FILED**
6 **PROVISIONALLY UNDER SEAL]**

7 40. Attached hereto as **Exhibit KK** is a true and correct copy of an email from Ching-
8 Han Tsai to Andre Lee, James Lian, and Josh Huang forwarding an email from Hartley
9 Nisenbaum regarding the ITCA Notice dated May 11, 2016, produced in this matter as
10 UBNT00014562-UBNT00014563. **[FILED PROVISIONALLY UNDER SEAL]**

11 41. Attached hereto as **Exhibit LL** is a true and correct copy of excerpts from the
12 30(b)(6) deposition transcript of Ubiquiti Networks International Limited through its designee
13 Kevin Radigan, taken in this matter on July 10, 2018.

14 42. Attached hereto as **Exhibit MM** is a true and correct copy of a webpage from the
15 CCleaner website titled *Can data cleaned by CCleaner be recovered?*, available at
16 [https://www.ccleaner.com/docs/ccleaner/introducing-ccleaner/can-data-cleaned-by-ccleaner-be-](https://www.ccleaner.com/docs/ccleaner/introducing-ccleaner/can-data-cleaned-by-ccleaner-be-recovered)
17 [recovered](https://www.ccleaner.com/docs/ccleaner/introducing-ccleaner/can-data-cleaned-by-ccleaner-be-recovered).

18 43. Attached hereto as **Exhibit NN** is a true and correct copy of a webpage from the
19 AVG website titled *Using AVG Shredder*, available at
20 [https://support.avg.com/SupportArticleView?l=en&urlname=What-is-AVG-File-Shredder-and-](https://support.avg.com/SupportArticleView?l=en&urlname=What-is-AVG-File-Shredder-and-how-to-use-it)
21 [how-to-use-it](https://support.avg.com/SupportArticleView?l=en&urlname=What-is-AVG-File-Shredder-and-how-to-use-it).

22 44. Attached hereto as **Exhibit OO** is a true and correct copy of Ubiquiti and UNIL's
23 Opposition to Synopsys' Motion for Leave to File Third Amended Complaint (ECF No. 195).

24 45. Attached hereto as **Exhibit PP** is a true and correct copy of the Declaration of
25 Hartley Nisenbaum in Support of Ubiquiti and UNIL's Opposition to Synopsys' Motion for
26 Leave to File Third Amended Complaint (ECF No. 195-9).

27 46. Attached hereto as **Exhibit QQ** is a true and correct copy of Ubiquiti and UNIL's
28 Answer to Third Amended Complaint (ECF 221).

